

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-02-150
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ORDER REGARDING MUTUAL ISSUES

(Issued December 3, 2002)

It has come to the attention of the Utilities Board (Board) and the undersigned administrative law judge that Interstate Power and Light Company (IPL) has raised two issues to be decided in both this proceeding and in IPL's rate case, Docket. Nos. RPU-02-3 and RPU-02-8 (the rate case). The two issues are: 1) the appropriate depreciation schedule(s) for the capital costs related to the Combustion Initiative (CI); and 2) whether the CI expenses for M.L. Kapp Unit 2 for the period April 1, 2002, through December 31, 2002, should be approved. These issues should be decided in one of the dockets, not both.

A telephone conference call was held on December 2, 2002, with all parties participating. The undersigned proposed that the two issues be decided by the Board in the rate case, and not by the undersigned in this case, and therefore, that the two issues not be litigated at the hearing in this case to be held December 9, 2002. The parties were given the opportunity to object to this proposal.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) objected and stated it wished to litigate the depreciation issue in this case, but did not object to the Board deciding the issue in the rate case. The Consumer Advocate does not object to litigating the second issue in the rate case and having the Board decide it in the rate case. On December 2, 2002, the Consumer Advocate and IPL filed a joint motion for official notice in both cases. The motion stated that the issues in the two cases concerning the appropriate depreciation life for CI investments are similar, and the parties stipulated that the prefilled testimony and exhibits of IPL witness Seitz and Consumer Advocate witness Fuhrman in Docket No. EPB-02-150, and the cross and redirect examination of each witness in Docket No. EPB-02-150, be officially noticed by the Board in Docket No. RPU-02-3 and RPU-02-8. The parties further stipulated that if any other party in either docket objected, they would withdraw the motion. At the conclusion of the hearing in this case, IDNR and MidAmerican will be given the opportunity to object to the joint motion for official notice.

The Department of Natural Resources – Air Quality Bureau (IDNR) took the position that if issues involving prospective utility expenses included in the current emissions plan and budget are dealt with in a contested case other than Docket No. EPB-02-150, Iowa Code Supp. section 476.6(25)(a)(3) obligates IDNR to become a party in that contested case. Therefore, it is IDNR's position that if issues involving prospective utility expenses are dealt with in the current IPL rate case, then it will petition to intervene in that proceeding for the narrow purpose of participation with

respect to those issues. At this time, it does not appear that the Board will be considering prospective utility expenses in the rate case, since the M.L. Kapp Unit 2 expenses for April 1, 2002 through December 31, 2002, have already been made. It would be difficult for IDNR to intervene in the rate case and effectively litigate the two issues, since the hearing on these issues in the rate case has already been held.

Therefore, in order to preserve the Consumer Advocate's and IDNR's right to litigate these issues in this proceeding, where they have existed since the emissions plan and budget was filed, all parties may continue to litigate these issues in this proceeding, and specifically, at the hearing on December 9, 2002.

Whether the two issues must be decided in this case is another question. There are a number of rate treatment issues to be decided in the rate case. Therefore, it appears most appropriate that a decision regarding the appropriate depreciation schedule(s) for the CI capital costs be made in the rate case. In addition, a hearing in the rate case, in which the second issue has been litigated, has already been held. There are a number of parties in the rate case who are not parties in this proceeding. IDNR is the only party in this proceeding who is not also a party in the rate case. It therefore appears most appropriate that a decision regarding the second issue also be decided in the rate case.

Therefore, the undersigned proposes that the two issues be decided by the Board in the rate case, and not by the undersigned in this proceeding. At the conclusion of the hearing, the parties will be given the opportunity to object to this proposal.

IT IS THEREFORE ORDERED:

1. The parties may continue to litigate the following issues in this proceeding, and specifically, at the hearing on December 9, 2002: 1) the appropriate depreciation schedule(s) for the capital costs related to the Combustion Initiative (CI); and 2) whether the CI expenses for M.L. Kapp Unit 2 for the period April 1, 2002 through December 31, 2002, should be approved.

2. At the conclusion of the hearing on December 9, 2002, IDNR and MidAmerican will be given the opportunity to object to the joint motion for official notice filed by IPL and the Consumer Advocate on December 2, 2002.

3. At the conclusion of the hearing on December 9, 2002, the parties will be given the opportunity to object to the proposal that the two issues be decided by the Board in IPL's rate case, Docket Nos. RPU-02-3 and RPU-02-8, and not by the undersigned in this proceeding.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 3rd day of December, 2002.